

UNITED STATES DISTRICT COURT
FOR THE DISTRICT OF MASSACHUSETTS

*In re: Nexium (Esomeprazole Magnesium)
Antitrust Litigation*

This Document Relates to: All Actions

MDL No. 2409

Civil Action No. 1:12-md-02409-WGY

STIPULATION OF FACTS

IT IS HERBY STIPULATED AND AGREED between Plaintiffs and Defendant AstraZeneca LP (“AstraZeneca”) acting through their undersigned counsel, subject to the Court’s approval, that the following facts are true. Each party reserves the right to present additional evidence, and each party reserves the right to object to the relevance and/or admissibility of the below-listed facts. This stipulation is in lieu of live testimony from Errol B. Taylor and Frederick M. Zullo.

1. On October 25, 2005, in response to an October 14, 2005 notice letter relating to Abbreviated New Drug Application (“ANDA”) No. 77-830 sent to AstraZeneca by Ranbaxy Laboratories Limited, outside counsel for AstraZeneca, Errol B. Taylor, sent a letter to Jay R. Deshmukh, Vice President – Global Intellectual Property for Ranbaxy Laboratories, Inc. regarding the notice letter. The document produced in this case with Bates numbers RAN-ESM0088194 through RAN-ESM0088197 is a true and accurate copy of the letter dated October 25, 2005 sent by Mr. Taylor to Mr. Deshmukh.

2. On October 27, 2005, Mr. Deshmukh responded to Mr. Taylor, and on behalf of Ranbaxy. The document produced in this case with Bates numbers NEX-RBX 3426749 through NEX-RBX 3426750 is a true and accurate copy of the letter dated October 27, 2005 sent by Mr. Deshmukh to Mr. Taylor.

3. On October 31, 2005, Mr. Taylor sent another letter to Mr. Deshmukh regarding the October 14, 2005 notice letter. The document produced in this case with Bates numbers NEX-RBX 3426808 through NEX-RBX 3426809 is a true and accurate copy of the letter dated October 31, 2005 sent by Mr. Taylor to Mr. Deshmukh.

4. On November 21, 2005 AstraZeneca filed a patent infringement suit, in the United States District Court for the District of New Jersey against Ranbaxy¹ (“AstraZeneca-Ranbaxy patent infringement litigation”).²

5. AstraZeneca alleged Ranbaxy’s ANDA No. 77-830 to market a generic Nexium product infringed AstraZeneca’s U.S. Patent No. 5,714,504 (the “504 patent”); U.S. Patent No. 5,877,192 (the “192 patent”); U.S. Patent No. 6,875,872 (the “872 patent”); U.S. Patent No. 6,428,810 (the “810 patent”); and U.S. Patent No. 6,369,085 (the “085 patent”); and that the process for producing Ranbaxy’s ANDA product would violate U.S. Patent No. 5,948,789 (the “789 patent”) (collectively the “AstraZeneca Patents”).

6. On June 27, 2007, the judge presiding over the New Jersey action sent the parties a letter ordering them to appear in court for a case management/settlement conference on July 24, 2007, and to submit a letter memorandum to the court, but not to the other parties. AstraZeneca submitted its letter memorandum on July 22, 2007. The document produced in this case with Bates numbers AZ-NX-MDL-01238466 through AZ-NX-MDL-01238471 is a true and accurate copy of the letter sent by counsel for AstraZeneca to the judge.

¹ Ranbaxy Pharmaceuticals, Inc., Ranbaxy Inc. and Ranbaxy Laboratories Ltd. (collectively, “Ranbaxy”).

² *AstraZeneca AB et al. v. Ranbaxy Pharmaceuticals, Inc. et al.*, 3:05-cv-05553-JAP-TJB (D.N.J.).

7. On or about April 14, 2008, AstraZeneca entered into an agreement with Ranbaxy which settled the AstraZeneca-Ranbaxy patent infringement litigation.

8. On April 16, 2008, the United States District Court entered a Consent Order and Final Judgment (“Consent Judgment”) submitted by the parties. The document produced in this case with Bates numbers NEX-RBX 0000435 through NEX-RBX 0000440 is a true and accurate copy of the transcript of the hearing on April 14, 2008 at which AstraZeneca and Ranbaxy requested that the Court enter the Consent Judgment.

Dated: September 15, 2014

Respectfully submitted,

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CERTIFICATE OF SERVICE

I, Thomas M. Sobol, hereby certify that on September 15, 2014, I caused a copy of the foregoing to be electronically filed via the Court's electronic filing system. Those attorneys who are registered with the Court's electronic filing system may access these filings through the Court's system, and notice of these filings will be sent to these parties by operation of the Court's electronic filing system.

Dated: September 15, 2014

Respectfully submitted,

/s/ Thomas M. Sobol

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